

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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MONIQUE HARRISON,

Plaintiff,

-against-

THE CITY OF NEW YORK, RIVERBAY  
CORPORATION, and "JOHN/JANE DOES #1-5"  
believed to be members of the NEW YORK CITY  
POLICE DEPARTMENT and/or RIVERBAY  
CORPORATION,

Defendants.

**ANSWER ON BEHALF OF  
CITY OF NEW YORK TO  
DEFENDANT RIVERBAY  
CORPORATION'S CROSS  
CLAIMS**

07 CV 11468 (LBS)

Jury Trial Demanded

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Defendant, The City of New York, by its attorney, Michael A. Cardozo,  
Corporation Counsel of the City of New York, for its answer to the complaint, respectfully  
alleges, upon information and belief, as follows:

1. Defendant repeats and realleges each and every paragraph of their Answer  
to the complaint dated April 8, 2008, as if fully set forth herein, including all affirmative  
defenses set forth therein.

2. Denies the allegations set forth in paragraph "28" of defendant Riverbay  
Corporation's Answer with Cross Claims.

**AS AND FOR A FIRST AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

3. The cross claims fail to state a claim upon which relief can be granted.

**AS AND FOR A SECOND AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

4. Defendant City of New York has not violated any rights, privileges or  
immunities under the Constitution or laws of the United States or the State of New York or any

political subdivision thereof, nor has defendant, City of New York, violated any act of Congress providing for the protection of civil rights.

**AS AND FOR A THIRD AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

5. At all times relevant to the incident, defendant City of New York acted reasonably in the proper and lawful exercise of its discretion.

**AS AND FOR A FOURTH AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

6. To the extent defendant Riverbay Corporation asserts state law claims against the City of New York, such claims should be barred by the doctrine of immunity for judgmental errors in the exercise of governmental functions.

**AS AND FOR A FIFTH AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

7. Defendant Riverbay Corporation's cross-claims against defendant City of New York are not ripe for adjudication.

**AS AND FOR A SIXTH AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

8. This Court lacks subject matter jurisdiction over defendant Riverbay Corporation's cross-claims.

**AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

9. Defendant Riverbay Corporation's cross claims may be barred in part by the doctrines of res judicata and/or collateral estoppel.


**AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE TO THE CROSS CLAIMS:**

10. Defendant Riverbay Corporation is not entitled to indemnification by the City of New York.

**WHEREFORE**, Defendant City of New York requests judgment dismissing the cross claims of defendant Riverbay Corporation, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York  
April 8, 2008

MICHAEL A. CARDOZO  
Corporation Counsel  
of the City of New York  
Attorney for Defendant City of New York  
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By:   
Meghan A. Cavalieri (MC 6758)  
Assistant Corporation Counsel  
Special Federal Litigation Division

To: VIA ECF  
Michael Armienti, Esq.  
Armienti, DeBellis,  
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cc: Michael Lumer, Esq.  
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**ANSWER TO DEFENDANT RIVERBAY  
CORPORATION'S CROSS CLAIMS ON BEHALF  
OF CITY OF NEW YORK**

***MICHAEL A. CARDOZO***

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Attorney for Defendant City of New York  
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New York, New York 10007*

*Of Counsel: Meghan A. Cavalieri  
Tel: (212) 788-6405*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 2008*

*..... Esq.*

*Attorney for .....*